

**DURHAM CITY COUNCIL WORK SESSION
THURSDAY, AUGUST 5, 2004 – 1:00 P.M.
Committee Room – City Hall – 2nd Floor**

SUBJECT: CONTRACT – MARTIN & COMPANY

MOTION by Council Member Clement seconded by Council Member Stith to suspend the rules of the City Council and take action on the above-mentioned subject was approved at 5:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

MOTION by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute the following contract and to make changes to the contract before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contract was approved at 5:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Martin & Company (Woolworth Property Appraisal - \$1,850.00)

**SUBJECT: CONVEYANCE OF PROPOSED EASEMENT TO DUKE ENERGY
FOR THE CONSTRUCTION OF C. M. HERNDON PARK**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to suspend the rules of the City Council and take action on the above-mentioned subject was approved at 6:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to authorize the conveyance of a terminable, Non-exclusive Deed of Easement to Duke Energy for a nominal consideration of \$1.00; and

To authorize the City Manager to make changes to the deed of easement as long as the changes are consistent with the following memorandum that accompanies this item was approved at 6:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

August 5, 2004

August 4, 2004

Memorandum To: Marcia L. Conner, City Manager
Through: Sharon Laisure, Assistant City Manager
From: Mark Greenspan, Director of General Services
Subject: Conveyance of Proposed Easement to Duke Energy
For the Construction of C. M. Herndon Park

Executive Summary

On February 2, 2004, the City Council approved the contract for construction of C. M. Herndon Park. The new athletic complex and park will be located on 25 acres of land on Scott King Road in southern Durham. This will be the City's first multi-purpose athletic complex composed of a competition soccer field, an artificial turf field, two soccer practice fields, two Little League Baseball fields, and a picnic shelter with amenities, restrooms, and playground equipment.

In order to meet the legal requirements for installation of the underground primary cable and transformer into the park, Duke Energy requires a Deed of Easement from the City. Duke Energy is offering to pay the City a one-time nominal consideration of \$1.00 for the easement.

The General Services Department and the Parks and Recreation Department recommend that the City Council: (1) authorize the conveyance of a terminable, Non-exclusive Deed of Easement to Duke Energy for a nominal consideration of \$1.00, and (2) authorize the City Manager to make changes to the Deed of Easement as long as the changes are consistent with the agenda memorandum that accompanies this item.

Background

Historically, the City would grant permanent and exclusive easements to utilities located in non-public right-of-way. However, with continual change and increased competition in the utility industry, the City Attorney's Office suggested that the Administration consider changing future easements to utility companies from perpetual easements to revocable/terminable, non-exclusive easements. This change gives the City the flexibility in negotiating with competing utility providers on an on-going basis.

Construction of the Project began on March 15, 2004 and is scheduled to be completed during the fall 2004. Duke Energy would like to complete the task no later than September 2004.

August 5, 2004

Issues/Analysis

- The easement allows Duke Energy to provide electrical service to C. M. Herndon Park.
- Granting terminable, Non-exclusive Deeds of Easements will give the City flexibility when approached by various utility competitors.

Alternatives

- To grant a terminable, Non-exclusive Deed of Easement to Duke Energy is necessary for the construction of the C. M. Herndon Park.
- To deny a Deed of Easement to Duke Energy would interfere with completion of the project.
-

Financial Impact

No financial impact is associated with this item. Compensation in the amount of \$1.00 will be deposited into the appropriate General Fund Account.

SDBE Summary

This item does not require review by the Equal Opportunity/Equity Assurance Department.

Recommendation

The General Services Department and the Parks and Recreation Department recommend that the City Council: (1) authorize the conveyance of a terminable, Non-exclusive Deed of Easement to Duke Energy for a nominal consideration of \$1.00, and (2) authorize the City Manager to make changes to the deed of easement as long as the changes are consistent with the agenda memorandum that accompanies this item.

SUBJECT: C. M. HERNDON PARK – CONTINGENCY FUND – PIEDMONT GEOLOGIC, P.C.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to suspend the rules of the City Council and take action on the above-mentioned subject was approved at 6:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to use the contingency fund in the amount of \$365,797 for construction activities, geotechnical services and reimbursements to utility companies for relocation services for C. M. Herndon Park project; and

August 5, 2004

To authorize the City Manager to enter into a contract with Piedmont Geologic, P. C. in the amount of \$29,993.00; and

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 6:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

D. Ann Gray, CMC
City Clerk